

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO**

**ROBERT PASTOR,** ) Case No.:  
Plaintiff, )  
v. )  
**BLUESTEM BRANDS, INC. d/b/a** )  
**FINGERHUT,** ) JURY TRIAL DEMANDED  
Defendant. )

## **COMPLAINT**

ROBERT PASTOR (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against BLUESTEM BRANDS, INC. d/b/a FINGERHUT (“DEFENDANT”):

## INTRODUCTION

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act, 47 U.S.C. §227.

## **JURISDICTION AND VENUE**

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant regularly conducts business in the State of Ohio, thus, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

## PARTIES

5. Plaintiff is a natural person residing in Canton, Ohio 44706.

6. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

7. Defendant is a corporation with its principal place of business located at 6509 Cloud Drive, Eden Prairie, Minnesota 55344.

8. Defendant is a “person” as that term is defined by 47 U.S.C. §153(39).

9. Defendant acted through its agents, employees, officers, members, directors, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

## **FACTUAL ALLEGATIONS**

10. Plaintiff has a cellular telephone number that he has had for over two years.

11. Plaintiff has only used this number as a cellular telephone number.

12. Beginning sometime during 2014, Defendant began to contact Plaintiff on his  
cell phone three (3) to four (4) times per day, on average.

13. When contacting Plaintiff on her cellular telephone, Defendant used an automatic telephone dialing system.

14. Plaintiff received automated calls that would begin with a noticeable delay before Defendant's representatives would speak to him.

15. Defendant's telephone calls were not made for "emergency purposes;" rather, defendant was attempting to collect an account balance.

16. Plaintiff spoke with Defendant in December 2014 and revoked any consent that Defendant may have had to contact him.

17. In response to Plaintiff's request to stop the calls, Defendant demanded payment account.

18. Defendant proceeded to ignore Plaintiff's revocation and call his cellular telephone number multiple times per day.

19. Upon information and belief, Defendant conducts business in a manner which violates the Telephone Consumer Protection Act.

**COUNT I**

**DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT**

20. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at length herein.

21. Defendant initiated automated calls to Plaintiff using an automatic telephone dialing system.

22. Defendant's calls to Plaintiff were not made for emergency purposes.

23. Defendant's calls to Plaintiff, on and after December 2014, were not made without Plaintiff's prior express consent.

24. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.

25. The acts and/or omissions of Defendant were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.

26. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above entitling Plaintiff to an award of statutory, actual and treble damages.

WHEREFORE, Plaintiff, ROBERT PASTOR, respectfully prays for a

1 judgment as follows:

- 2 a. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);  
3 b. Statutory damages of \$500.00 per violative telephone call pursuant to 47  
4 U.S.C. § 227(b)(3)(B);  
5 c. Treble damages of \$1,500.00 per violative telephone call pursuant to 47  
6 U.S.C. §227(b)(3);  
7 d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);  
8 e. Any other relief deemed appropriate by this Honorable Court.  
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10  
11 **DEMAND FOR JURY TRIAL**

12 PLEASE TAKE NOTICE that Plaintiff, ROBERT PASTOR, demands a jury trial in this  
13 case.

14  
15 Respectfully submitted,

16 DATED: April 5, 2016

17 By: /s/ Amy Lynn B. Ginsburg, Esq.  
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